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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Masahiro Shioji :
Application No. 09/873,413 : LETTER REGARDING
Filed: June 5, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. 010728 :

This letter is in response to the "LETTER TO THE EXAMINER REGARDING PATENT TERM ADJUSTMENT" filed February 28, 2007. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment mailed with the Notice of Allowance may be longer than appropriate.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On November 18, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 777 days. Applicant discloses that the Office delay in taking action on May 5, 2005 to their non-final Office action filed October 22, 2004 should be calculated as 44 days, instead of 72 days. Applicant asserts that in calculating Office delay, the Office erred in using the date of November 22, 2004 for the date of receipt of their non-final Office action.

The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. Applicant is incorrect. The Office used the October 22, 2004 date in calculating Office delay. Pursuant to 37 CFR 1.702(a)(2) and 1.703(a)(2), in this instance, the period of

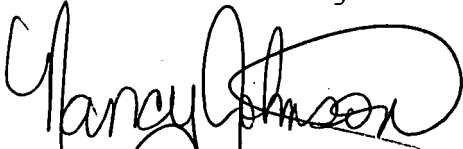
delay for the Office taking more than four months to respond to a reply under 35 U.S.C. 132 is 72 days, counting the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, February 23, 2005 and ending on the date of mailing of either an action under 35 U.S.C. 132, May 5, 2005.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance of seven hundred seventy-seven (777) days is correct.

As this letter was submitted as an attempt to advise the Office of an error in Applicant's favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized loop at the end.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions